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: CIA-RDP92M00732R001100020005-9

UCA 2876-89

OFFICE OF CONGRESSIONAL AFFAIRS

Routing Slip

	ACTION	INFO
1. D/OCA		<i>x</i>
2. DD/Legislation	<i>x</i>	
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7. Admin Officer		
8. FOIA Officer		
9. Constituent Inquiries Officer		
10. <i>DD/OCA</i>		<i>x</i>
11.		
12.		

POF-LEG

SUSPENSE

30 Aug 89
DateAction Officer:

Remarks:

*Letter sent to OMB addressed to
CIA comments. See OCA 3067-89
30 Aug. 89.**AJP 16 Aug 89*

Name/Date

*OCA# 3067-89**30 Aug 89*

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Central Intelligence Agency



Washington, D.C. 20505

OCA FILE

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30 August 1989

OCA 3067-89

Mr. James C. Murr
Assistant Director
Legislative Reference Division
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Murr:

This is in response to your request for the views of the Central Intelligence Agency (CIA) on the EEOC's proposed report on H.R. 1012, the "Federal Employee Discrimination Complaint Procedures Act of 1989." With the exception of a few additional concerns pertaining to the unique situation of the Intelligence Community as discussed below, CIA has no objections to the passage of the EEOC report on this legislation to the Chairman of the House Committee on Post Office and Civil Service.

The first area of concern to the CIA in this legislation involves Section 2(c)(1) of the House Bill. This section proposes that the EEOC will investigate all EEO complaints brought against Federal Government agencies yet provides no requirement for clearing personnel at the EEOC to review sensitive classified information. The current law and regulations provide for investigations to be conducted by the agency against which the complaint is lodged. Although we recognize that the lawmakers' intent with this proposed statutory change is to eliminate potential bias in these individual agencies' investigations, this new statutory requirement does not take into consideration the fact that most Intelligence Community EEO complaints involve the review of sensitive classified information. We would prefer incorporation of language that would protect sensitive Intelligence Community information, while at the same time accommodating the lawmakers' concerns over bias. We believe that both concerns can be addressed by including a provision in H.R. 1012 to require that Intelligence Community agencies designate an employee or employees at other disinterested intelligence agencies to investigate each other. For example, NSA could have a designated employee to investigate CIA EEO complaints, and vice versa. These designated officials could then make the determination required under H.R. 1012, Section 2(c)(4)(A) to enter into conciliation if they decide that there is reasonable cause to

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believe that the charge is true. We recommend that a provision similar to the current EEO law be inserted into this proposed legislation to provide for appeal to the EEOC in the event that the complainant does not agree with the Agency's determination.

A second area of concern involves Section 2(c)(5)(B) of H.R. 1012. This proposed provision allows the complainant to request a hearing before an administrative law judge. However, 2(c)(5)(B) is silent as to clearance procedures for those judges required to review Intelligence Community EEO complaints. Under the current EEO law, CIA and NSA provide cleared judges to each other when a complainant requests a hearing. While we would prefer to continue to follow our current procedures, at a minimum H.R. 1012 2(c)(5)(B) should include a provision for clearing administrative law judges who must review Intelligence Community EEO complaints.

Finally, Section 5 (d) of the statute requires that an agency transfer all records to the EEOC that relate to specified pending EEO charges against the agency. Again, the Intelligence Community's security concerns require that these types of records cannot be transferred to the EEOC unless appropriate security clearances are issued to EEOC personnel handling these records and that the facilities storing such records are approved for storing classified information.. Proposed H.R. 1012 contains no provision for protecting transferred Intelligence Community documents. We request that such a provision be incorporated into H.R. 1012.

Thank you for the opportunity to express the views of the CIA on this legislation and the EEOC's proposed report. Should you desire additional comments, please contact of this office at 482-6126.

Sincerely,

Acting Deputy Director for Legislation
Office of Congressional Affairs

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